

FINAL BILL REPORT

SHB 1307

C 74 L 13
Synopsis as Enacted

Brief Description: Concerning sexual assault protection orders.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Goodman, Lytton, Wylie, Jenkins, Cody, Roberts, Santos and Moscoso).

House Committee on Judiciary
Senate Committee on Human Services & Corrections

Background:

A person may petition for a sexual assault protection order if he or she has been subjected to one or more incidents of nonconsensual sexual conduct or penetration that gives rise to a reasonable fear of future dangerous acts. These orders provide a remedy for victims of sexual assault who do not qualify for a domestic violence protection order. Orders last for a fixed time not to exceed two years.

Guardians ad Litem. A petitions for a sexual assault protection order may be filed by the victim or by another person on behalf of a victim who is a minor or vulnerable adult. A minor who is at least 16 years old may petition for a sexual assault protection order on their own without a guardian ad litem or next friend. The court may, but is not required to, appoint a guardian ad litem for a petitioner or respondent who is a minor, but is at least 16 years old.

Service of Process. The respondent must be personally served with the petition and notice of the hearing not less than five court days prior to a full hearing on an initial petition for a sexual assault protection order, or a hearing for renewal or modification of an existing order. If timely service cannot be made, the court must set a new hearing date and require additional attempts to personally serve the respondent. Final orders must also be personally served on the respondent. If an order recites that the respondent was present in court when the order was entered, further proof of service is unnecessary.

The court may issue an ex parte temporary protection order pending the hearing. The temporary order is effective for a fixed period not to exceed 14 days from the issuance of the temporary order.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Motion for Renewal. Any sexual assault protection order, whether it is final or temporary, may be renewed. If the renewal is uncontested and no modification is sought, the order may be renewed on the basis of a motion or affidavit stating that there has been no material change in relevant circumstances. Renewals may only be granted in open court.

Summary:

Guardians ad Litem. If the court appoints a guardian ad litem for either the petitioner or the respondent, the appointment is at no cost to either party.

Service of Process. Respondents may be served by publication or mail in certain situations. The court cannot require more than two unsuccessful attempts at personal service of an initial petition prior to permitting service by publication or mail, unless the petitioner requests further attempts to personally serve. If service by publication or mail is permitted, the hearing date is set for no more than 24 days from the date of the order. If a temporary ex parte order is in place the court must reissue the temporary order to cover the lengthened time for service.

The same rules allowing service by publication or mail for initial petitions also apply to petitions for renewal and modification, and to the service of final orders.

The court may order service by publication if:

- the serving sheriff or municipal peace officer has filed an affidavit stating that personal service could not be made;
- the petitioner has filed an affidavit stating that the petitioner believes the respondent is hiding from service;
- the server has mailed a copy of the summons, in a form laid out in statute, notice of the hearing, and a copy of the ex parte order to the respondent's last known address, if any; and
- the court has found that reasonable grounds exist to believe that the respondent is hiding from service, and further attempts to personally serve would be futile.

Service by publication must be made in one of the three most widely circulated newspapers in the county in which the petition was brought, and the county of the respondent's last known address, once per week for three consecutive weeks.

If the circumstances warranting service by publication are present, and the serving party files an affidavit from which the court determines that service by mail is just as likely to give actual notice to the respondent as would service by publication, the court may order service by mail. Any nonparty over 18 years old who is competent to be a witness may complete service by mail by mailing copies of the order and other process to the respondent at his or her last known address, or other appropriate address as determined by the court. Two copies must be mailed, one by ordinary first-class mail, and the other by a form requiring a signed receipt showing when and to whom it was delivered.

Motion for Renewal. If a motion for renewal is contested, the court must order a hearing to occur no more than 14 days from receipt of the motion, or 24 days if the court has allowed service by publication or mail. The court may schedule a hearing by telephone pursuant to

local court rule, to reasonably accommodate a disability or, in exceptional circumstances, to protect the petitioner from further assault.

Votes on Final Passage:

House	92	0
Senate	48	0

Effective: July 28, 2013